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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,624	07/21/2003	Edward J. McGunn	00272P0014US	5179
32116 7590 01/03/2008 WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			EXAMINER SHAPIRO, JEFFERY A	
			ART UNIT 3653	PAPER NUMBER
			MAIL DATE 01/03/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/623,624

Applicant(s)

MCGUNN ET AL.

Examiner

Jeffrey A. Shapiro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Transitional After Final Practice*


1. In view of the Appeal Brief filed on 9/26/07, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

  
PATRICK MACKEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6-9, 11-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jo et al (US 2003/0141265 A1) in view of Mignault (US 6,269,285 B1), further in view of Delbrouck (US 4,269,326), further in view of Pullen (US 6,220,463 B1) and still further in view of and further in view of O'Brien et al (US 6,415,953 B1).

**Regarding Claims 1, 3, 7 and 8**, Jo et al discloses a shelf-like device with multiple rows having a pusher plate (11) that contacts the rear most articles (13), base rail (12), stop plate (14) that abuts the front-most articles, rails (15) and end supports (22 and 23). Note that pusher plate (11) is biased by spring (20). See figures 1-7 and paragraphs (2 and 18-20).

**Regarding Claims 1, 2, 7 and 16**, Jo does not expressly disclose, but Delbrouck discloses using a dispensing mechanism that dispenses cylindrical items in the form of drawers or shelves. See Delbrouck, col. 6, lines 5-12. Note that Merriam-Webster's Collegiate Dictionary, 10<sup>th</sup> ed., p.352, defines a "drawer" as

"a sliding box or receptacle opened by pulling out and closed by pushing in."

The same dictionary also defines a "shelf" at p. 1079 as

1a. "a thin flat usu[ally] long and narrow piece of material (as wood) fastened horizontally (as on a wall) at a distance from the floor to hold objects"

1b. "one of several similar pieces in a closet, bookcase, or similar structure"

1c. "the contents of a shelf"

2a "something resembling a shelf in form or position"

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have incorporated Jo's dispensing mechanism in a drawer, since a drawer and shelf are functionally equivalent from the standpoint of both being able to "hold objects" on a horizontally fastened piece of material disposed at a distance from the floor. Additionally, one ordinarily skilled would have used a drawer over a shelf since a drawer provides further enclosure and coverage of the items stored therein as well as for the purpose of increasing space utilization. See Pullen, abstract, last four lines.

**Regarding Claims 1, 4, 6, 9, 11 and 17,** Jo does not expressly disclose, but Mignault discloses a sensor (84, 86, 88, 90, 92, 94, 96 and 98) used with a pusher plate (82) to determine the quantity of items (7, 72, 74, 76 or 78) in a row (34, 36, 38 or 40) by sensing the position of the pusher plate. See figures 2 and 3. This sensor data is sent to a controller (134) and an inventory control center (136). See Mignault, col. 6, lines 30-47. The inventory information is construed as including a quantity of items and their dollar value.

**Regarding Claims 1, 5, 70 and 10,** Jo discloses the system described above. Jo does not expressly disclose, but O'Brien discloses a withdrawing means (44) having a semi-cylindrical housing for receiving a vertical cylindrical item in the form of bottles. See figures 3 and 4 and col. 3, lines 9-52.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have placed the semi-cylindrical withdrawing means of Mignault at the front of a column in the pusher plate system of Jo.

The suggestion/motivation would have been to withdraw a single cylindrical item from a column while maintaining the other items in the column. This teaching is readily apparent from figures 3 and 4 and col. 3, lines 9-52.

**Regarding Claims 13-16 and 20**, note that Mignault further discloses a magnetic reed switch (86) used for sensing the position of the pusher plate. This reed switch is considered to be part of a system of resistors having voltages and impedances throughout.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have used the sensor system of Mignault in the pusher plate system of Jo.

The suggestion/motivation would have been to determine the quantity of items left in a column of Jo's shelf device.

4. Claims 5, 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jo et al (US 2003/0141265 A1) in view of Mignault (US 6,269,285 B1) and further in view of Delbrouck (US 4,269,326), further in view of Pullen (US 6,220,463 B1), further in view of O'Brien et al (US 6,415,953 B1) and still further in view of Carter (US 6,934,688 B2).

**Regarding Claims 5, 10 and 19**, Jo discloses the system described above. Jo does not expressly disclose, but Mignault discloses that a computer (136) obtains the inventory information from the controller. See col. 6, lines 30-47.

**Regarding Claims 5, 10 and 19**, Jo does not expressly disclose, but Carter discloses that a computer obtains inventory information from the controller and displays it on a computer monitor/display (64) or (82). See figures 1, 2, 6-8 and col. 6, lines 30-67.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have used a display device to view inventory information obtained from a control computer in Jo's device, as taught by Mignault and Carter, for the purpose of displaying inventory information such as quantity and value of items in the form of "vertical tubes of currency" by row as this is a logical way of presenting such information to a user of Jo's system.

### ***Response to Arguments***

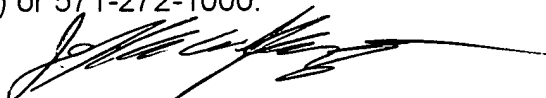
5. Applicant's arguments with respect to Claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (571)272-6943. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick H. Mackey can be reached on (571)272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jeffrey A. Shapiro  
Examiner  
Art Unit 3653

December 13, 2007



PATRICK H. MACKEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600